

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MANUEL GARCIA,
Plaintiff

v.

ERIKA FENSTERMAKER, ET AL.,
Defendants

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CIVIL NO. 3:12-CV-2466

(JUDGE NEALON)

(MAGISTRATE JUDGE CARLSON)

ORDER

**FILED
SCRANTON**

JAN 30 2013

NOW, THIS 30th DAY OF JANUARY, 2013, for the reasons set forth in the
Memorandum issued this date, **IT IS HEREBY ORDERED THAT:**

PER

DEPUTY CLERK

1. The Report and Recommendation (Doc. 5) is **ADOPTED**;
2. The complaint, (Doc. 1), is **DISMISSED with prejudice** as to Defendant Fenstermaker;
3. The Clerk of Courts is directed to **TERMINATE** Erika Fenstermaker as a party to this action;
4. The Clerk of Courts is directed to **SERVE** the complaint on the United States in accordance with Rule 4 of the Federal Rules of Civil Procedure. Defendant is requested to waive service pursuant to Rule 4(d)¹;
5. Plaintiff's motion for leave to proceed in forma pauperis, (Doc. 2), is **GRANTED**;
6. This matter is **REMANDED** to Magistrate Judge Carlson for further proceedings; and
7. Any appeal will be deemed frivolous, without probable cause, and not taken in good faith.


United States District Judge

¹The Marshal will send the form Notice of Lawsuit and Request for Waiver of Service of Summons to Defendant.